

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JACK MANN,

Plaintiff,

Case No. 15-cv-12869

Hon. Matthew F. Leitman

v.

SOE SCHLOTTMAN, *et al.*,

Defendants.

**ORDER GRANTING IN PART (1) PLAINTIFF'S MOTION
TO RECALL THE CASE (ECF #11) AND (2) MOTION
TO REMEDY DEFAULT (ECF #13)**

Plaintiff Jack Mann ("Mann") is an inmate currently confined at the Allenwood Federal Correctional institute in White Deer, Pennsylvania. Mann filed his Complaint against the Defendants on August 14, 2015, but failed to pay the \$350.00 filing fee and the additional required administrative fee of \$50.00 (for a total of \$400.00). (*See* ECF #3 at 1, Pg. ID 30.) On September 14, 2015, Mann filed with the Court a deficient application to proceed *in forma pauperis* under 28 U.S.C. § 1915(a)(2) (the "Application"). (*See* ECF #5.) On September 15, 2015, the Court granted Mann an extension to cure the deficiency and ordered him to submit a renewed application to proceed *in forma pauperis* no later than October 15, 2015 (the "September 15 Order"). (*See* ECF #7 at 3, Pg. ID 46.) In the alternative, the Court gave Mann the option of paying the \$400.00 fee. (*See id.* at

2-3, Pg. ID 45-46.) On October 14, 2015, Mann filed a response to the September 15 Order which failed to cure the Application's deficiencies. (*See* ECF #9.) As a result, the Court dismissed Mann's Complaint without prejudice on October 27, 2015 (the "Order of Dismissal"). (*See* ECF #10.)

After the Court issued the Order of Dismissal, Mann filed motions with the Court in which he argued he had paid the required filing fee and asked the Court to re-open his case.¹ (*See* ECF ## 11, 13.) For example, on November 10, 2015, Mann provided the Court evidence that in late October, he had \$350.00 withdrawn from his inmate account in order to pay the outstanding filing fee. (*See* Mann's Motion to Recall the Case, ECF #11 at 3, Pg. ID 67.) And the Court did in fact receive a check from Mann for \$350.00. (*See* Dkt.) However, it appears that Mann may have been confused as to the correct amount he needed to pay. Although \$350.00 would be sufficient to cover the Court's filing fee, Mann failed to include the additional required \$50.00 administrative fee. Thus, the Clerk of the Court did not accept Mann's payment and returned the \$350.00 to him. (*See id.*)

¹ It is unclear whether Mann attempted to pay the filing fee before or after he received the Court's Order of Dismissal. Mann says that he "received the [Order of Dismissal] ...on or about 10/25/2015." (ECF #11 at ¶1, Pg. ID 65.) But the Court did not even issue the Order of Dismissal until two days *after* Mann claims he received it. (*See* ECF #10.) Thus, because it is uncertain when Mann received the Order of Dismissal, it is at least plausible that Mann attempted to pay the filing fee before he knew that the Court had dismissed his Complaint without prejudice.

On November 30, 2015, Mann filed a Request for Status for Payment of Costs in which he inquired whether the Court had “received payment in full for the case at bar.” (ECF #14 at 1, Pg. ID 89.) It has not. However, it appears that Mann has made a good-faith effort to fulfill the Court’s filing and payment requirements. Accordingly, **IT IS HEREBY ORDERED** that Mann’s “Motion to Recall the Case” (ECF #11) and “Motion to Remedy Default” (ECF #13) (collectively, the “Motions”) are **GRANTED IN PART** as follows: The Court will grant Mann a 30-day extension from the date of this Order to pay the full \$400.00 in fees to file his Complaint. To avoid any further confusion, the Court instructs Mann that he must pay both the \$350.00 filing fee and the \$50.00 administrative fee (**\$400.00 total**), and this \$400 payment must be received by the Court no later than **January 10, 2016**. Mann should make one single payment of \$400 by the deadline, not two separate payments (of \$350 and \$50). If the Court timely receives the full \$400.00, the Court will set aside the Order of Dismissal and reinstate Mann’s Complaint. The Motions are **DENIED** in all other respects.

IT IS SO ORDERED.

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: December 10, 2015

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on December 10, 2015, by electronic means and/or ordinary mail.

s/Holly A. Monda

Case Manager

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